

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DECLARATION OF RANDALL A. SPENCER

I, Randall A. Spencer declare

1) I am one of the attorneys for plaintiff in this action and I have personal knowledge of the facts herein. If called as a witness, I could and would testify competently to the following facts:

2) Attached hereto as Exhibit A is a true and exact copy of the preliminary injunction entered against Joseph A. Yanny in Case No. BC 033035.

3) Attached hereto as Exhibit B is a true and exact copy of the Reporter's Transcript of Proceedings on October 23, 1991 in the above entitled action. I will bring the original to the hearing on December 23, 1991.

4. I was admitted to the State and Federal Courts in Illinois in 1974 and was admitted to practice in California in 1982. My areas of concentration include civil litigation. My normal hourly rate is \$170.00 per hour. In preparing this opposition, I devoted seven hours of my time. I believe that the time consumed in travelling to and from the hearing on December 23 will consume approximately three hours. I therefore request an award of sanctions against Mr. Yanny in the amount of \$1,700.00.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed on December 13, 1991 in Los Angeles, California.

*Randall A. Spencer*  
RANDALL A. SPENCER







1 John J. Quinn  
2 QUINN, KULLY & MORROW  
3 520 S. Grand Ave., 8th Floor  
4 Los Angeles, CA 90071  
5 (213) 622-0300

6 Attorneys for Plaintiff  
7 CHURCH OF SCIENTOLOGY INTERNATIONAL

8 William T. Drescher  
9 23679 Calabasas Road, Suite 338  
10 Calabasas, California 91302  
11 (818) 591-0039

12 Attorney for Plaintiff  
13 RELIGIOUS TECHNOLOGY CENTER

14 Laurie J. Bartilson  
15 Helena K. Kobrin  
16 BOWLES & MOXON  
17 6255 Sunset Blvd., Suite 2000  
18 Los Angeles, CA 90028  
19 (213) 661-4030

20 Attorneys for Plaintiff  
21 CHURCH OF SCIENTOLOGY OF CALIFORNIA

22 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
23 COUNTY OF LOS ANGELES

24 RELIGIOUS TECHNOLOGY CENTER, )  
25 A California Non-Profit Religious )  
26 Corporation, CHURCH OF SCIENTOLOGY )  
27 INTERNATIONAL, a California )  
28 Non-Profit Religious Corporation, )  
29 CHURCH OF SCIENTOLOGY OF )  
30 CALIFORNIA, a California )  
31 Non-Profit Religious Corporation, )

32 Plaintiffs, )

33 v. )

34 JOSEPH A. YANNY, an individual, and )  
35 JOSEPH A. YANNY, a Professional Law )  
36 corporation, and DOES 1-25, )  
37 inclusive, )

38 Defendants. )

FILED

Sept 18, 91  
JAMES H. DEMPSEY, CLERK

BY Chapman

DEPUTY

NO. BC 033035

PRELIMINARY INJUNCTION

Date: None

Dept: 41

Time: None

Trial Date: Oct. 21, 1991

No motion cut-off

No discovery cut-off



1 This matter came before the Court on August 6, 1991 on  
2 plaintiffs' Application for Preliminary Injunction. The Court,  
3 having read and considered the papers submitted by all parties in  
4 support of and in opposition to that application, and having  
5 heard the arguments of counsel, and being fully informed, now  
6 makes the following findings:

7 1. Yanny represented the plaintiffs for several years in  
8 a variety of different matters and acted as a coordinating  
9 attorney for them during most of that time, coordinating  
10 the majority of the litigation and many other legal matters in  
11 which they were involved during that period.

12 2. In the Statement of Decision rendered by this Court on  
13 July 18, 1990 in the prior case between these same parties,  
14 Religious Technology Center, et al. v. Yanny, et al., LASC  
15 Case No. C 690 211, the Court noted that Yanny had shown a ready  
16 willingness to disregard legal and ethical responsibilities owed  
17 to his former clients. It appears to the Court that Yanny has  
18 now chosen to disregard this warning language and has directly  
19 disregarded his ongoing responsibilities as plaintiffs' former  
20 attorney. A breach of Yanny's fiduciary duties to plaintiffs has  
21 now been directly manifested through Yanny's appearance as  
22 counsel of record for Vicki and Richard Aznaran against his  
23 former clients in Vicki Aznaran, et al. v. Church of  
24 Scientology of California, et al., No. CV-88-1786 JMI(Ex) in  
25 the United States District Court for the Central District of  
26 California as to matters which are substantially similar to those  
27 for which Yanny was formerly engaged by plaintiffs to safeguard  
28 their interests. That representation of the Aznarans was



1 undertaken without plaintiffs' consent, written or verbal, in  
2 violation of Business and Professions Code section 6068(e) and  
3 Rule of Professional Conduct 3-310(D). It does not appear that  
4 plaintiffs will ever consent to such representation of the  
5 Aznarans by Yanny.

6 3. The Court also finds that the plaintiffs have alleged  
7 that Yanny now represents another individual, Gerald Armstrong,  
8 a litigation adversary of plaintiffs, against plaintiffs, and  
9 that he does so without either the written or verbal consent of  
10 any plaintiff. Although this allegation raises an issue which  
11 is disputed and will be determined at trial, as Yanny denies  
12 that his representation of Armstrong as to Armstrong's literary  
13 matters is substantially related to his former representation of  
14 plaintiffs, his denial of such representation shows that he has  
15 no basis to protest issuance of a preliminary injunction against  
16 such representation.

17 4. The Court further finds that there is a likelihood that  
18 the plaintiffs will prevail on the merits of this matter, and  
19 that money damages are not adequate.

20 NOW, THEREFORE, IT IS ORDERED THAT:

21 1. A preliminary injunction be and hereby is issued  
22 enjoining defendants, Joseph A. Yanny and Joseph A. Yanny, A  
23 Professional Law Corporation, from engaging directly or  
24 indirectly in the following activities:

25 a) Yanny shall not represent the Aznarans directly or  
26 indirectly in any case against plaintiffs in this county;

27 b) In any actions filed prior to July 31, 1991, in  
28 which Yanny is counsel for the Aznarans against plaintiffs



1 or any other Scientology entity, Yanny shall be subject to  
2 an individual motion to disqualify in that county;

3 c) Yanny is precluded from initiating any case in the  
4 state or federal courts of this State as counsel for the  
5 Aznarans;

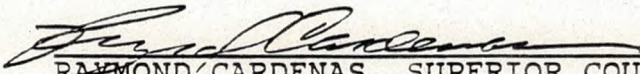
6 d) Yanny shall not represent Armstrong directly or  
7 indirectly in any legal proceeding against plaintiffs without  
8 plaintiffs' prior written consent or further court order;

9 e) Yanny shall not initiate any legal proceeding on  
10 behalf of Armstrong in any court of this state or federal court  
11 of this state for Armstrong against the plaintiffs;

12 f) In any actions filed prior to July 31, 1991, in  
13 which Yanny is counsel for Armstrong against plaintiffs  
14 or any other Scientology entity, Yanny shall be subject to  
15 an individual motion to disqualify in that county;

16 2. No bond is required of plaintiffs. Defendants  
17 specifically requested that no bond be required.

18 DATED: ~~August~~ <sup>Sept</sup> 18, 1991

19   
20 RAYMOND CARDENAS, SUPERIOR COURT  
21 JUDGE  
22  
23  
24  
25  
26  
27  
28







1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 41 JUDGE RAYMOND CARDENAS

RELIGIOUS TECH. CENTER, ET AL., )  
PLAINTIFFS, ) NO. BC033035  
-V- )  
JOSEPH A. YANNY, ET AL., )  
DEFENDANTS. )

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
WEDNESDAY, OCTOBER 23, 1991

PLAINTIFFS:

WILLIAM T. DRESCHER  
ATTORNEY AT LAW  
23679 CALABASAS ROAD  
SUITE 338  
CALABASAS, CALIFORNIA 91320  
(818) 591-0039

DEFENDANTS:

LAW OFFICES OF CUMMINS & WHITE  
BY: BARRY VAN SICKLE  
865 SOUTH FIGUEROA STREET  
24TH FLOOR  
LOS ANGELES, CALIFORNIA 90012  
(213) 614-1000

DEFENDANT:

RICHARD WYNNE  
LAW OFFICES OF CUMMINS & WHITE  
865 South Figueroa  
24TH FLOOR  
LOS ANGELES, CALIFORNIA 90012  
(213) 614-1000

NANCY C. GOODE, CSR 8191  
111 NORTH HILL STREET  
ROOM 216  
LOS ANGELES, CALIFORNIA 90012

**COPY**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

LOS ANGELES, CALIFORNIA, WEDNESDAY, OCTOBER 23, 1991

9:40 A.M.

DEPARTMENT 41

JUDGE RAYMOND CARDENAS

APPEARANCES: WILLIAM T. DRESCHER, PLAINTIFFS  
BARRY VAN SICKLE, DEFENDANT  
RICHARD WYNN, DEFENDANT

THE COURT: NUMBER ONE: RELIGIOUS TECH CENTER VERSUS  
YANNY, BC033035.

YOUR APPEARANCES, PLEASE.

MR. DRESCHER: GOOD MORNING, YOUR HONOR. WILLIAM  
DRESCHER ON BEHALF OF THE MOVING PARTY.

MR. VAN SICKLE: BARRY VAN SICKLE ON BEHALF OF  
DEFENDANT, RESPONDING PARTY, JOSEPH YANNY.

MR. WYNN: RICHARD WYNN ALSO ON BEHALF OF DEFENDANT.

THE COURT: THIS IS A MOTION BY PLAINTIFF TO SEAL THE  
RECORD REGARDING THE SETTLEMENT MADE BY GENERAL ARMSTRONG  
DATED JULY 16TH, '91.

MR. VAN SICKLE, I READ YOUR OPPOSITION.  
APPARENTLY, IT'S CLAIMED THAT THIS AGREEMENT HAS BEEN MADE  
PUBLIC BY OTHERS, AND THAT'S THE JUSTIFICATION FOR NOT



1 SEALING THIS AGREEMENT; IS THAT IT?

2 MR. VAN SICKLE: IN A NUTSHELL. THE AGREEMENT HAS  
3 BEEN MADE PUBLIC IN NUMEROUS WAYS AND NUMEROUS FORMS BY  
4 VARIOUS SOURCES.

5 THE COURT: ALTHOUGH IT WAS THE INTENTION, AND I DON'T  
6 THINK IT'S DENIED BY ARMSTRONG AND THE PLAINTIFFS, THAT THE  
7 AGREEMENT REACHED BETWEEN THEM WOULD BE CONFIDENTIAL; IS  
8 THAT RIGHT?

9 MR. VAN SICKLE: WELL, I THINK THAT YOU'D HAVE TO  
10 PROBABLY GO INTO SOME EXTENSIVE QUESTIONING OF MR.  
11 ARMSTRONG, DECLARATIONS AND THE LIKE, TO FIND OUT WHAT MR.  
12 ARMSTRONG'S INTENT AND UNDERSTANDING WAS.

13 IT'S MY UNDERSTANDING -- AND THIS IS BEING ARGUED  
14 IN OTHER FORMS -- BUT MY UNDERSTANDING IS THAT  
15 MR. ARMSTRONG'S POSITION IS THAT THEY HAVE VIOLATED THIS  
16 PARTICULAR AGREEMENT, AND THEY HAVE ATTACKED AND COME AFTER  
17 HIM IN VARIOUS WAYS. AND SINCE THEY HAVE VIOLATED, THE  
18 AGREEMENT IS NO LONGER BINDING ON HIM. I DON'T REPRESENT  
19 MR. ARMSTRONG. THAT'S MY UNDERSTANDING, BELIEF, IT'S NOT  
20 BINDING UPON HIM.

21 THE COURT: HE'S NOT EVEN A PARTY IN THIS ACTION?

22 MR. VAN SICKLE: NO.

23 MR. DRESCHER: THE SOURCE OF EACH OF THE FILINGS,  
24 EITHER DIRECTLY OR INDIRECTLY, HIS INTENTIONS ARE -- WERE  
25 CLEAR ENOUGH, IS THAT A STIPULATION AND ORDER WERE ENTERED  
26 AT THE TIME OF THE AGREEMENT, AND FRANKLY, IF A DOCUMENT  
27 HAS SIMPLY BEEN RELEASED IMPROPERLY BY ONE OF THE PARTIES  
28 OR THROUGH THE ASSISTANCE OF ONE OF THE PARTIES, IT DOESN'T



1 CHANGE THE ORIGINAL CHARACTER AS FOUND BY THE COURT.

2 I THINK THIS IS A DOCUMENT EVERYONE INTENDED TO  
3 BE SEALED WHEN IT WAS, AND THE COURT OF APPEALS HAS  
4 AFFIRMED THAT. THERE'S ABSOLUTELY NO JUSTIFICATION TO BE  
5 FLOATING IN THIS CASE WHEN IT'S BEING PROPERLY SEALED IN  
6 OTHER COURTS.

7 THE COURT: MR. WYNN?

8 MR. WYNN: YOUR HONOR, I CAN SPEAK A LITTLE MORE ABOUT  
9 WHAT THE INTENTIONS ARE BY MR. ARMSTRONG BECAUSE I WAS  
10 PRESENT AT HIS DEPOSITION IN THIS CASE ABOUT 10 DAYS AGO.

11 MR. ARMSTRONG'S POSITION IS INDEED THAT  
12 PLAINTIFFS, IN THIS MATTER THE PARTIES TO THE SETTLEMENT  
13 AGREEMENT, REACHED THE AGREEMENT WHICH HAS RELEASED HIM  
14 FROM ANY NECESSITY OF KEEPING THAT AGREEMENT CONFIDENTIAL.

15 AT THIS TIME, WE WOULD SUBMIT THE SAME DOCUMENT  
16 IS AVAILABLE IN THE CORDON (PHONETIC) CASE, AND IT HAS BEEN  
17 FOR A PERIOD OF ALMOST 18 MONTHS, AND OPEN TO THE PUBLIC.  
18 IT BEEN AVAILABLE IN THE COURT OF APPEALS ALTHOUGH THERE IS  
19 A MOTION PENDING.

20 THE COURT OF APPEAL NOTICED -- MADE NOTE OF THE  
21 FACT IN THE OPINION THAT'S ATTACHED TO THE MOVING PAPERS  
22 THAT THEY'RE GOING TO REQUIRE A MORE PARTICULARIZED SHOWING  
23 THAN WHAT THEY DID IN RESEALING THE TRIAL TRANSCRIPT, WHICH  
24 IN EFFECT, WAS TO SAY THAT JUDGE GEERNAERT COULDN'T REVERSE  
25 WHAT JUDGE BRECKENRIDGE HAD DONE TWO YEARS EARLIER.

26 IN THIS CASE, THE MATTER IS OF PUBLIC RECORD.  
27 GIVEN THE FACT THE APPELLATE COURT -- WHETHER THE APPELLATE  
28 RECORD WOULD BE SEALED, WE BELIEVE PLAINTIFFS HAVE FAILED



1 TO SHOW THE VERY STRONG SHOWING NECESSARY TO SEAL WHAT  
2 OTHERWISE WOULD BE A PUBLIC, ACCESSIBLE RECORD AND WE  
3 THINK, IF NOTHING ELSE, THIS COURT SHOULD PUT OFF A  
4 DECISION ON THAT UNTIL THE APPELLATE COURT RULES AS TO  
5 WHETHER THE APPELLATE RECORD WILL BE SEALED.

6 THE COURT: WITHOUT FURTHER ARGUMENT, THE COURT RULES  
7 THAT THE MOTION IS GRANTED. THE COURT WILL NOT ASSIST IN  
8 THE BREACH OF WHAT APPEARS TO BE A CONFIDENTIALITY  
9 AGREEMENT BETWEEN PLAINTIFFS AND ARMSTRONG, AND DELIVER THE  
10 MOTION AS GRANTED.

11 MOVING PARTY GIVE NOTICE.

12 MR. DRESCHER: I WILL. THANK YOU, YOUR HONOR.

13

14 (END OF PROCEEDINGS.)

15

16

17

18

19

20

21

22

23

24

25

26

27

28



1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT: 41

HON. RAYMOND CARDENAS

4 RELIGIOUS TECH. CENTER, ET AL., )

5 PLAINTIFFS, )

6 VS. )

7 JOSEPH A. YANNY, ET AL., )

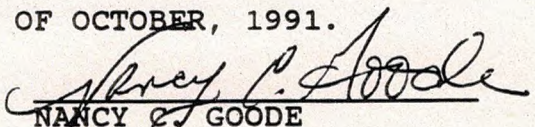
8 DEFENDANTS. )

9  
10  
11  
12  
13 REPORTER'S CERTIFICATE

14  
15 STATE OF CALIFORNIA )  
16 COUNTY OF LOS ANGELES )

17  
18 I, NANCY C. GOODE, OFFICIAL REPORTER OF THE SUPERIOR  
19 COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS  
20 ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 01  
21 THROUGH 05, COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT  
22 OF THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER ON  
23 WEDNESDAY, OCTOBER 23, 1991.

24 DATED THIS 23RD DAY OF OCTOBER, 1991.

25  
26  
27  
28  
  
NANCY C. GOODE  
CSR 8191